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Attorneys for Plaintiff-Counterclaim Defendant
 NETAPP, INC.

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN FRANCISCO DIVISION

NETWORK APPLIANCE, INC.

Plaintiff-Counterclaim Defendant,

v.

SUN MICROSYSTEMS, INC.

Defendant-Counterclaim Plaintiff.

Case No. 3:07-CV-06053-EDL

**STIPULATION AND ~~PROPOSED~~ ORDER
 EXTENDING DEADLINE TO FILE MOTIONS
 TO COMPEL**

In its February 12, 2008 Case Management Scheduling Order, the Court specified that motions to compel non-expert discovery must be filed within the time limits contained in Civil Local Rule 26-2, which provides that motions must be filed within 7 court days of the close of discovery. Order (Docket Entry 20), at ¶ 2a; Civil Local Rule 26-2. In its November 18, 2008 Order, the Court set April 24, 2009 as the close of fact discovery concerning certain of the patents-in-suit.¹ As a result, the deadline for filing motions to compel concerning fact discovery related to these patents is May 5, 2009.

The parties (between themselves and with third-parties) have been, and continue to be,

¹ The parties have agreed that a certain number of depositions that were noticed prior to the close of discovery, but that could not be scheduled prior to that deadline, may proceed prior to June 19, 2009.

engaged in what appear to be fruitful negotiations concerning their respective discovery responses. However, the volume of issues to work through is such that the meet-and-confer process is not yet complete. In light of this, the parties are concerned that, if this filing deadline is not continued, a multitude of discovery issues will be raised with the Court unnecessarily. Because the parties believe that continued discussions are likely to resolve many or all of the currently pending disputes, they hereby stipulate through their respective counsel of record, subject to the Court's approval, that the deadline for filing motions to compel discovery that is subject to the April 24, 2009 fact discovery cutoff be continued until May 22, 2009.

Dated: May 4, 2009

WEIL, GOTSHAL & MANGES LLP

By: /s/ Jeffrey G. Homrig

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Dated: May 4, 2009

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IT IS SO ORDERED.

Dated: May 5, 2009

